

State of Colorado



Bill Owens
Governor

DPA

Department of Personnel
& Administration

State Personnel Board

The Chancery
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AGENDA PUBLIC BOARD MEETING January 20, 2004

A public meeting of the State Personnel Board will be held on Tuesday, January 20, 2004, at the Colorado Department of Transportation, 4201 East Arkansas Avenue, Second Floor Auditorium, Denver, Colorado 80222. The public meeting will commence at 9:00 a.m.

Reasonable accommodation will be provided **upon request** for persons with disabilities. If you are a person with a disability who requires an accommodation to participate in this meeting, please notify Board staff at 303-764-1472 by January 15, 2004.

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I. REQUESTS FOR RESIDENCY WAIVERS

A. January 1, 2004 Report on Residency Waivers

Reports are informational only; no action is required.

II. PENDING MATTERS

There are no pending matters before the Board this month.

III. REVIEW OF INITIAL DECISIONS OR OTHER FINAL ORDERS OF THE ADMINISTRATIVE LAW JUDGES OR THE DIRECTOR ON APPEAL TO THE STATE PERSONNEL BOARD

There are no initial decisions or other final orders of the Administrative Law Judge or the Director for review on appeal to the Board this month.

IV. REVIEW OF PRELIMINARY RECOMMENDATIONS OF THE ADMINISTRATIVE LAW JUDGES OR THE DIRECTOR TO GRANT OR DENY PETITIONS FOR HEARING

A. Patricia L. Brockman v. Department of Corrections, Youthful Offender System, State Personnel Board case number 2004B006.

Complainant petitions the State Personnel Board to grant a discretionary, evidentiary hearing to review Respondent's layoff of Complainant from her position. On December 23, 2003, a Preliminary Recommendation of the Administrative Law Judge was issued, recommending that a hearing be denied.

- B. Steven Y. Kim v. Department of Regulatory Agencies, Office of Information Technology Services, State Personnel Board case number 2004G003.

Complainant petitions the State Personnel Board to grant a discretionary, evidentiary hearing to review Respondent's termination of his employment during the probationary period. On December 23, 2003, a Preliminary Recommendation of the Administrative Law Judge was issued, recommending that a hearing be denied.

- C. James Quintana v. Department of Corrections, Buena Vista Correctional Complex, State Personnel Board case number 2004G010.

Complainant petitions the State Personnel Board to grant a discretionary, evidentiary hearing to review Respondent's response to his grievance. On December 23, 2003, a Preliminary Recommendation of the Administrative Law Judge was issued, recommending that a hearing be denied.

V. INITIAL DECISIONS OR OTHER FINAL ORDERS OF THE ADMINISTRATIVE LAW JUDGES OR THE DIRECTOR

- A. Greg Bailey v. Department of Public Safety, Colorado State Patrol, State Personnel Board case number 2004B043.

On December 23, 2003, the Initial Decision of the Administrative Law Judge was issued. The ALJ found that Respondent's one-day suspension without pay of Complainant was not arbitrary, capricious or contrary to rule or law, and ordered that Respondent's action is affirmed and Complainant's appeal is dismissed with prejudice.

- B. Andrea Najjar v. Department of Corrections, State Personnel Board case number 2004B009.

On January 7, 2004, the Initial Decision of the Administrative Law Judge was issued. The ALJ found that Complainant failed to demonstrate that DOC's offer of retention rights to Complainant following a layoff was arbitrary, capricious or contrary to rule or law and ordered that Respondent's action is affirmed and Respondent's motion for attorney fees and costs is denied.

VI. REVIEW OF THE MINUTES FROM THE DECEMBER 16, 2003 PUBLIC MEETING OF THE STATE PERSONNEL BOARD

VII. ACKNOWLEDGMENTS

DECISIONS OF THE STATE PERSONNEL BOARD MADE AT ITS DECEMBER 16, 2003 PUBLIC MEETING:

- A. Gary Berlin v. Department of Natural Resources, Division of Wildlife, State Personnel Board case number 2004D001.

The Board voted to issue a declaratory order that the residency waiver that was issued in 2001 for this position is no longer in effect and requiring the agency to request a new residency waiver for this position, if the agency wishes to recruit out of state.

- B. Dan Wells and Barry Rice v. Department of Higher Education, University of Colorado at Denver, Auraria Media Center, Auraria Library and Auraria Higher Education Center, State Personnel Board case number 2002B092 (C).

The Board voted to adopt the findings of fact and Conclusions of Law 1,2 and 4, in the Initial Decision of the Administrative Law Judge, but to reverse the Administrative Law

Judge on Conclusion of Law 3 (Respondent Auraria Higher Education Center's actions, with regards to Complainant Rice, were arbitrary, capricious or contrary to rule or law).

- C. Susan Downey v. Community Colleges in Colorado, Arapahoe Community College, State Personnel Board case number 2003B109

The Board voted to adopt the findings of fact and conclusions of law in the Initial Decision of the Administrative Law Judge and to adopt the Initial Decision.

- D. James Aragon v. Department of Corrections, Centennial Correctional Facility, State Personnel Board case number 2003B202.

The Board voted to adopt the Order Granting Motion to Dismiss Appeal with Prejudice.

- E. Freddie Montoya, Jr. v. Colorado State University, University of Southern Colorado, State Personnel Board case number 2003G133.

The Board voted to adopt the Preliminary Recommendation of the Administrative Law Judge and deny the petition for hearing.

- F. Tony Roso v. Department of Transportation, State Personnel Board case number 2004G004.

The Board reviewed the Preliminary Recommendation of the Administrative Law Judge, noting that in the petition for hearing, "the Complainant has the burden of demonstrating the existence of valid issues which merit a hearing by showing that there is an evidentiary and legal basis that would support a finding that the action was arbitrary, capricious or contrary to rule or law, and that the relief requested by the Complainant is within the Board's statutory authority." Board Rule R-8-49.

A motion was made and seconded to adopt the Preliminary Recommendation of the Administrative Law Judge and deny the petition for hearing. A majority of the Board did not find that there were valid issues in which merit a hearing. The petition for hearing is denied.

VIII. REPORT OF THE STATE PERSONNEL DIRECTOR

IX. ADMINISTRATIVE MATTERS & COMMENTS

A. ADMINISTRATIVE MATTERS

- Budget Report and Revenue and Expense Report
- Cases Scheduled for Preliminary Review
- Cases on Appeal to the Board and to Appellate Courts
- Mandate, Order Affirmed in Hay v. Department of Corrections, State Personnel Board Case number 2002G036, Court of Appeals No. 02CA1113
- Notice of Public Hearing to Consider Adoption of Permanent Administrative Procedures

B. GENERAL COMMENTS FROM ATTORNEYS, EMPLOYEE ORGANIZATIONS, PERSONNEL ADMINISTRATORS, AND THE PUBLIC

X. EXECUTIVE SESSION

A. Case Status Report

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NEXT REGULARLY SCHEDULED BOARD MEETINGS

9:00 a.m.

<u>Date</u>	<u>Location</u>
February 17, 2004	Colorado Department of Transportation 4201 East Arkansas Ave., Second Floor Auditorium Denver, CO 80222
March 16, 2004	Colorado Department of Transportation 4201 East Arkansas Ave., Second Floor Auditorium Denver, CO 80222
April 20, 2004	Colorado Department of Transportation 4201 East Arkansas Ave., Second Floor Auditorium Denver, CO 80222
May 18, 2004	Colorado Department of Transportation 4201 East Arkansas Ave., Second Floor Auditorium Denver, CO 80222
June 15, 2004	Colorado Department of Transportation 4201 East Arkansas Ave., Second Floor Auditorium Denver, CO 80222